

## ***Chapter 1***

# **Project Purpose and Background**

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### General Comments

- Comment O-1.001** p.1-1. This section states that Northwest Aggregates is a wholly owned subsidiary of Lone Star Northwest. In the interest of fully disclosing the identity of the applicant, please indicate throughout the EIS that the applicant is Taiheijo Cement Corp., a Japanese multinational corporation.  
Ortman, David
- Comment** 21. Please note that the terms Lone Star N.W./N.W. Aggregates/ Chichibu Onoda, Taiheiyo Cement are used interchangeably by islanders and their consultants and should be considered in that light, as the entity to which the permit is being given is one of 250 subsidiaries and, therefore, we are uncomfortable with its identification.  
Sharon K. Nelson
- Comment** 22. Please identify ownership of the property.  
Sharon K. Nelson
- Response** Glacier Northwest is the name under which the Applicant chooses to process the application. The “multinational” nature of the Applicant’s parent company is not relevant to evaluating the environmental impacts of the project under SEPA.
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### 1.1 Introduction

#### 1.1.1 Why a Decision is Needed

- Comment O-1.004** King County has made a correct decision by issuing a Determination of Significance for the proposal. The proposed project will have a significant adverse impact on the environment.  
Ortman, David

**Response**

Under WAC 197–11–360, Determination of significance (DS)/initiation of scoping, King County determined that the proposal *may* have a probable significant adverse environmental impact, not that the project necessarily *would*. Significant adverse impacts are identified and evaluated in the EIS, not in the Determination of Significance. Often, the additional detail required to prepare an EIS results in alternatives and measures that can mitigate significant adverse impacts.

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**Comment I-3.019**

Can we afford to decide in favor of development? Can we mitigate everything that has no value commercially? ... Is this the only/best site?

Judith Wood Pearce

**Response**

Financial or commercial values are not within the scope of an EIS. The purpose of an EIS under SEPA is to evaluate significant *environmental* impacts and alternatives, not the economic/commercial viability of the proposal. Under SEPA, King County is not considering other sites because this is a private project and, under WAC 197-11-440, EIS Contents:

*When a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site.*

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***Decision to be Made, Scope of the EIS, and Off-loading Impacts***

Many comments raised concerns that the EIS did not evaluate off-loading impacts, including the impacts associated with the SeaTac expansion proposal.

**Comment I-15.002**

... there should be an EIS done for the other side (i.e., Burien or Normandy Park). After all, there will be an impact to the place where all the proposed cargo will be unloaded.

Beverly Skeffington

**Comment I-14.008**

The DEIS focuses on operations from and at the Maury site, but does not address receiving site issues. ... There could be other receiving sites not as close to Maury that would be better served from other mining sites. The DEIS should address the entire system, at least at an overview level, not just the Maury Island and

barge operations portions.  
Eugene A. Smith

**Comment I-4.007**

Delivery and transportation of mined materials to mainland of King County, and the resulting environmental impacts there, are not even addressed by the ... document  
Barbara and Fred Gylland

**Comment I-1.039**

Impacts of the proposed action are only addressed from a mine site perspective. Destination and other regional impacts are not included ... barge offloading and other activities not related to the mine site would have substantial impacts.  
Frank Shipley

**Comment C-2.012**

A significant omission is the lack of discussion and supporting data regarding the prospect of the applicant servicing the borrow requirements for the Seattle-Tacoma International Airport expansion or other, similarly large customer commitments.  
Ernst, William

**Comment G-1.001**

1. Relation of proposal to airport activities. The proposal to mine vast quantities of fill material on Maury Island is inextricably linked to the proposed expansion of Seattle-Tacoma International Airport. The third runway alone requires an enormous amount of fill, conservatively estimated by its proponents at 19.84 million cubic yards (mcy). Other parts of the airport's expansion plans are estimated by the proponents to require another six or seven mcy of fill. The Maury Island site is the prime candidate to be the source for this unprecedented fill purchase. Using the figures provided in the DEIS, we conclude that the total estimated volume of available fill and sand is about 60 mcy. The airport has estimated its fill requirement as an amount greater than one third of that total volume. Common sense tells us that Lone Star wants to sell a lot of good-quality fill to the airport, and that this project is yet another part of the over-all SeaTac Airport expansion. The DEIS should consider the proposal as a part of the SeaTac expansion.  
Seattle Council on Airport Affair

**Comment G-1.017**

17. Piece-mealing, handling and use of mined materials. It is difficult to avoid the conclusion that the project as presented in the DEIS is not the complete project, and that the DEIS is therefore deficient, because of its failure to deal with aspects of the project that were not presented by the proponent. The eight elements of the project appear to be 1) re-open mine on a large scale; 2) excavate on a large scale; 3) transport excavated material to dock; 4) re-build dock; 5) move excavated materials from dock to barges; 6) move barges from Maury Island dock to one or more unstated

destinations, shoreside; 7) move materials from the shoreside destination(s) to place(s) of ultimate use; 8) at ultimate destination(s), handle and use materials. It would seem that the DEIS covers only items 1-4. The latter four parts of the project have not been considered. Those last four items encompass the entire subject of the transportation and use of the materials after they leave Maury Island. These matters are not discussed in the DEIS, but should be covered in the FEIS. FEIS coverage of these new topics should be to the same depth of detail displayed in the DEIS, together with the additional work suggested by these and other informed comments. Otherwise, the FEIS needs to spell out the regulatory measures to be taken to ensure the safe handling of the materials after they leave Maury Island.

Seattle Council on Airport Affair

**Comment G-1.018**

18. Relation to Airport Project. Because this is a project directly related to the SeaTac Airport expansion proposal, care should be taken to weigh the allegations of the importance of the project against the realities of the airport expansion. The likelihood of the airport expansion actually going forward is obviously very poor. The dubious project proposed for Maury Island should not be considered as necessary for the very dubious third-runway project. Standing as a part of the airport project, it is a bad idea. On its own merits, it is an intolerable idea.

Seattle Council on Airport Affairs

**Comment G-4.002**

2. Airport issues. The proposal is evidently put forward by the proponent in the hope - or perhaps on the assurance - that it will be a successful vendor of large quantities of fill materials to the Port of Seattle for its ill-considered, ill-fated plan of constructing a supplemental plateau adjacent to its present site, and thereon to build the most expensive landside airstrip in the history of civil aviation. To cut environmental corners to allow the Maury Island project on the premise that it will help the airport project would be a big mistake, for the airport project is stalled and has little prospect of starting up again.

Seattle Community Council Federation

**Comment G-5.020**

20. Doesn't it take over a million double haul trucks annually (round trip) to transport fill from four barges a day (maximum barge rate DEIS proposes)? Do you consider this a minor truck volume (see paragraph 8.2.4) or did you confine your cumulative impacts to Maury Island? How many trucks per day will be needed to carry away fill from four barges? Where will they unload the fill? Will they close down Highway 509 for over five years to transport fill by truck from the Duwamish to SeaTac

Airport? How much and what type of pollution will there be?  
Citizens Against SeaTac Expansion

**Comment G-5.008**

8. An EIS is needed that addresses the Maury Island mining, barging, transporting (conveyor and/or trucks) and placing of fill at the SeaTac Airport site. Neither the Lone Star nor the Port of Seattle Master Plan Update addresses all of the issues and impacts.  
Citizens Against SeaTac Expansion

**Comment G-5.018**

18. Why hasn't the mining, barging, conveyor and/or truck transport and placement of fill been evaluated in an EIS for the SeaTac Airport Master Plan project?  
Citizens Against SeaTac Expansion

**Comment I-2.033**

The destination for this ... material is the site of the Third Runway ... I request that the permits be denied until all of the legal challenges have been exhausted and the final permits have been issued for ... the Third Runway.  
Rose Clark

**Comment C-7.006**

An EIS is needed that addresses the Maury Island mining, barging, transporting, and placing of fill at the SeaTac Airport site. Neither the Lone Star nor the SeaTac Master Plan Update EIS process addressed this. A complete, cumulative pollution analysis is needed for both air and water, including an air conformity analysis. The DEIS appeared to be a rubber stamp for the Lone Star and related Third Runway projects, rather than a thorough assessment of the environmental threats.  
Brown, A.

**Comment C-7.014**

Why hasn't the mining, barging, conveyor and/or truck transport and placement of fill been evaluated in an EIS for the SeaTac Airport Master Plan project? Why wasn't there a cumulative analysis performed? Doesn't it take over a million double haul trucks annually to transport barged fill? Do you consider this a minor truck volume, or did you confine your cumulative impacts to Maury Island?  
Brown, A.

**Comment**

The political expediency of the Sea Tac Third Runway project is an obvious motivation for pushing the Lone Star Maury Island mine quickly through this process. The FEIS must discuss more honestly and thoroughly the connection between the two, so that decision-makers and Lone Star can be held accountable for any and all of the damage to our Island and the Sea-Tac area communities who are also impacted by this project.  
Shelley Means

**Comment O-1.352**

This section states that material from the site would eventually be trucked from water-based off-loading points to inland delivery points. Such trucking would increase traffic and related impacts, including road damage, noise effects, increased traffic delays, safety risks, and air quality impacts from traffic-generated dust and emissions. Please provide quantitative estimates of the impacts from each of these activities over the proposed life of the project.

Ortman, David

**Comment O-1.337**

8.3.2.1 p. 8-9 This section states that Jones & Stokes refuses to disclose trucking impacts at receiving sites. WAC 197-11-440(6)(e) requires that “significant impacts on both the natural environment and the built environment must be analyzed, if relevant” (197-11-444). This involves impacts upon and the quality of the physical surroundings, whether they are in wild, rural, or urban areas.” This section clearly states that each barge would require about 735 truck loads over 6 hours to unload. These are impacts that would not take place in the absence of this project. Therefore, the DEIS must include an analysis of both the energy consumption and air quality impacts of additional pollution into the Puget Sound airshed. Please provide such an analysis.

Ortman, David

**Comment I-2.022**

If material goes by barge via Duwamish will it be trucked up SR 509? What are the implications for commuter traffic ... ? Has the State Department of Transportation given permission for this huge number of trucks to be on the freeway?

Rose Clark

**Comment I-2.023**

How much will the maintenance of SR 509 be? Will Lone Star pay for the maintenance or will the people pay ...?

Rose Clark

**Comment I-2.024**

How do you plan to handle the increase truck traffic at the ... intersection of SR 509 and SR 518?

Rose Clark

**Comment I-2.025**

... Trucks wreak havoc with the Highline School District Transportation Department. ... Will you mitigate the extended time bus drivers have to drive through gridlocked truck traffic?

Rose Clark

**Comment I-2.026**

If neither Des Moines nor the Duwamish can be used is there another route of delivery? ... What is it?

Rose Clark

**Comment O-1.316**

This section states that mainland trucking impacts are evaluated at a qualitative level in Section 8.3, Marine Traffic, because future markets and routes from barge delivery points are only speculative at this time. This is incorrect. First, mainland trucking impacts are not evaluated at all, even at the “qualitative level”. Second, the DEIS, Sec. 8.3.3.1 p.8-12, identifies Des Moines as a high-potential delivery point showing that barge delivery points are far more than “only speculative at this time.” Specific barge delivery points and truck impacts must be identified and analyzed in this EIS.

Ortman, David

**Comment O-1.317**

Unfortunately for Taiheijo Cement Corp., the City of Des Moines has rejected the “high -potential delivery point for the Proposed Action” and it remains highly unlikely that the Port will succeed in its efforts to ride roughshod over the objections of the City of Des Moines. However, if Jones & Stokes wishes to include this information, then it must also analyze the environmental impacts of off-loading millions of tons of fill material at the Des Moines site.

Ortman, David

**Comment O-1.318**

p. 8-14. This section states that specific impacts of off-loading materials would be addressed under SEPA on a case-by-case basis, within the jurisdiction where trucking or construction would occur. Specific impacts of off-loading material is directly related to this proposed project. Therefore, these specific impacts must be addressed in this DEIS.

Ortman, David

**Comment O-1.319**

Please identify all known barge off-loading sites in the Puget Sound area.

Ortman, David

**Comment O-1.320**

Of the known barge sites how many have truck capacity to handle 735 truck trips over a 6-hour time period?

Ortman, David

**Comment O-1.347**

section 8.3.3.2 p. 8-12. This is one of the most peculiar sections in the entire DEIS. Jones & Stokes has attempted to portray all future export contracts as completely speculative so that they can attempt to avoid evaluating impacts from mainland delivery points (project “increases the applicant’s ability to win contracts” Summary p S-1), but then attempts to pressure King County into approving the project by specifically mentioning that Des Moines is a “high-potential delivery point for the Proposed Action” (p. 8-12). The only reason for including this in this section is to remind King



County that the real purpose of this project is to supply fill material from one of our Puget Sound islands for the Port of Seattle's "Third Runway" (which would actually result in an augmented second runway configuration).

Ortman, David

**Comment I-2.020**

Des Moines is a sovereign city with the power to issue or withhold permits. ... Will the wishes of a whole city be set aside because the County has issued permits?

Rose Clark

**Response**

Per WAC 197-11-060, Content of environmental review:

*Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document.*

It is clear that barging and delivery of materials offsite is an integral element of the project, and barging was evaluated in detail in Section 8.3, Marine Traffic, and elsewhere. However, specific projects and related off-loading impacts are outside the scope of this EIS. Using the definitions in WAC 197-11-060 that immediately follow the above citation, King County has determined that the SeaTac Expansion project and other potential off-loading demands do not meet the criteria for evaluation in the same environmental document:

*Proposals or parts of proposals are closely related, or they shall be discussed in the same environmental document, if they:*

*(i) cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or*

*(ii) are independent parts of a large proposal and depend on the larger proposal as their justification or for their implementation.*

For element (i), King County determined that the SeaTac proposal or any other construction project is not dependent on the Maury Island proposal. While these projects may eventually use product from the Maury Island site, they are not justified by the Maury Island proposal, nor are they dependent on it for their existence.

For element (ii), King County has determined that the Maury Island proposal is not dependent on the SeaTac project, or on any other project, for its justification. While the Applicant has indicated that they are eager to secure that large potential contract, they have indicated that they wish to revise the permit on the

mining site regardless of whether they would or would not receive that contract.

## 1.1.2 The SEPA Process

### ***General Adequacy of DEIS***

**Comment C-12.002**

There is a lack of quantitative support material. A cost-benefit analysis is absent. Because of the island's size, isolation, population, and type of proposed activity, it would be very easy to apply real numbers to the current and proposed impact. There is also a lack of ecological data, either general to the Pacific Northwest or specific to the island ... not a single reference to professional studies.

St. George, Brian

**Response**

Per WAC 197-11-450 "Cost-benefit analysis":

*A cost-benefit analysis (WAC 197-11-726) is not required by SEPA. ... For purposes of complying with SEPA, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. [Statutory Authority: RCW 43.21C.110. 84-05-020 (Order DE 83-39), § 197-11-450, filed 2/10/84, effective 4/4/84.]*

Per WAC 197-11-330, the absolute quantitative effects of a proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment. Quantitative data were included throughout the EIS, including in the description of the proposed action, and in analyses for air quality, aquifer recharge, amount of affected habitats, noise levels, vessel traffic, and arsenic levels.

Also per WAC 197-11-330, "it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted or values cannot be quantified." For example, the quantitative impacts on visual resources or impacts due to disturbance of wildlife are difficult to quantify.

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**Comment O-1.526**

The Jones & Stokes Maury Island DEIS violates WAC 197-11-440 by failing to describe "... the principal features of the environment that would be affected ... by the alternatives including the proposal

under consideration.”

Ortman, David

**Comment C-2.013**

The description and explanation of many of the serious risks and impacts posed by this project have not been adequately addressed. Failure to consider these risks and impacts in the DEIS does not minimize or eliminate them at the applicant’s Maury Island site. These impacts must be thoroughly studied, understood, and documented before operations begin as required by law. They must not simply be asserted to be trivial by the applicant and King County, to be mitigated by an as-yet poorly documented plan for operational controls and impacts monitoring.

Ernst, William

**Comment C-3.001**

In our opinion, the DEIS for Lone Star does not begin to adequately address the many environmental and health aspects of Lone Star’s proposed operations.

Quenneville, Michael and Nancy

**Comment G-2.001**

We find that the DEIS fails to provide an adequate evaluation of the effects of the proposed mine. The proposed mining of 7.5 million tons of sand and gravel threatens to produce potentially large impacts to the environment - impacts the DEIS minimizes repeatedly with “no unavoidable adverse impacts” notation. In addition to the deficiencies in the DEIS noted below, we must emphasize that the Lone Star project is proposed for a shoreline that is zoned conservancy under the Shoreline Master Program and King County’s Shoreline Master Program. Regulations prohibit industrial uses in conservancy zones.

Washington Environmental Council

**Comment**

Generally, mitigation measures are invoked only after all other feasible alternatives have been explored. Yet in this draft EIS there is no consideration given to other alternatives to mining the site. This document titles 56 mitigation measures and adds 38 more as, “Additional Measures for Consideration-” which King County might add. Does the decision-making official in King County DDES believe that a project with “no significant impacts” yet requiring a total of 94 mitigation measures should be permitted?

Joel Kuperberg

**Comment**

The subject EIS repeats and repeats, “No significant impacts” with regard to any and all of the intended actions of Lonestar. Does the EIS document define the term, “significant impacts” and on what page? If there is no definition in the EIS or if it is a one-liner, will you please add a definitive explanation of the term as used in this

document and, the difference between “Significant impacts” and “No significant impacts” in your judgement.

Joel Kuperberg

**Comment**

Do all EIS documents recommend that the subject project be approved as without significant impacts? Has there ever been a King County EIS that concluded the project described should not be approved? If “Yes,” please identify the EIS’ title, the project name and the location.

Joel Kuperburg

**Response**

**Additional Studies**

The scope of the EIS is based on (a) King County’s authority and responsibility to implement SEPA and (b) issues identified through scoping. Extensive studies have been conducted at the site. Thousands of hours and hundreds of thousands of dollars have been spent evaluating this project over the past 3 years.

It is important to note that the EIS is intended to contain information relevant to significant adverse environmental impacts and a reasoned choice among alternatives. Under SEPA, once studies provide that information, then additional analysis is not warranted and may create unnecessary costs and/or unduly delay decisions and government action.

**Significance of Impacts**

In response to these and other public comments, a section has been added to each chapter of the FEIS to state explicitly the relevant significance criteria for each impact.

Under SEPA, King County must apply stringent and legally defensible standards when determining whether an impact is “significant” and whether the impact can be effectively mitigated. The standards that King County must follow may differ from those used by the general public.

The legal record for past SEPA analyses demonstrates a relatively high threshold for an impact to be considered “significant and unavoidable.” One of the primary reasons for this is that, under SEPA, an otherwise legal activity can be legally denied if the agency finds that “the proposal would be likely to result in significant adverse impacts and reasonable mitigation measures are insufficient to mitigate the identified impact” (WAC 197-11-660-1[f]).

The corollary of this is that a significant adverse environmental impact that cannot be mitigated (i.e., one that is unavoidable) is one that is sufficiently severe as to legally justify denial of the project. King County considers this a high threshold.

Under RCW 43.21C.060 (conditioning or denial of government action), any such denials or conditions must be “based upon policies identified by the appropriate governmental authority and incorporated into regulations, plans, or codes which are formally designated by the agency.”

Therefore, to be significant and unavoidable, impacts must be (1) contrary to regulations, plans, or codes, and (2) without effective mitigation measures.

In terms of the first condition, it is important to note that the site is a designated mining site, and that mining is expected and even protected under King County zoning code and the policies and land use designations set forth in the comprehensive plan. The need to tie significance to regulations, plans, or codes is also the basis for the analysis team to consider legal limits (such as those placed on noise levels by King County Code) as the thresholds of significance for some types of impacts. If impacts cannot be mitigated below such limits, then such impacts could be considered significant and unavoidable.

One of the legal premises underlying the land use planning and regulatory system in Washington State is that decisions on individual applications must be based upon adopted ordinances and policies rather than upon the personal preferences or “general fears” of those who currently live in the neighborhood of the property under consideration [Department of Corrections v. Kennewick, 86 Wn. App. 521, 937 P.2d 1119 (1997); Indian Trail Prop. Ass’n. v. Spokane, 76 Wn. App. 430, 439, 886 P.2d 209 (1994)].

In terms of the second condition defining significance (absence of effective mitigation), the analysis team developed more than 75 mitigation measures to minimize or avoid adverse impacts in addition to those that were proposed by the Applicant or required by existing regulations.

Whether impacts are sufficient to deny the project, or whether some or all or additional conditions should be placed on the permit, are questions left to the decision-maker. The decision-maker will make these determinations within the framework provided by law, and as supported by facts and conclusions established in the EIS.

**Comment G-2.002**

A particular failing of the DEIS is the lack of consideration of the complexity of the ecosystems within the site, both on land and water. For example, the DEIS contains no analysis of the effects of pier operations, and specifically vessel traffic, on the behavior of herring, juvenile salmon, and other fish. Several stocks of Puget Sound salmon have, of course, recently been listed as threatened under the Endangered Species Act (ESA) by the National Marine Fisheries Service (NMFS). More recently, NMFS has found substantial evidence to begin a review of whether to list herring under the ESA.

Washington Environmental Council

**Response**

Chapter 6 of the FEIS (Marine Habitat and Fisheries) has been supplemented to address the numerous comments regarding effects of pier operations and vessel traffic on the marine environment, including effects on Puget Sound chinook salmon and Pacific herring.

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**Comment G-2.022**

22. Due to the scope of the Lone Star project, the impact to the environment, and the conflict with the Shoreline's conservancy designation, WEC has very strong concerns about this project. We find the DEIS is not adequate to justify the project. If the project is to proceed, Lone Star should produce a supplemental EIS that addresses the concerns raised above.

Washington Environmental Council

**Response**

Comment noted. The EIS is not intended to justify the project, but rather to ensure that SEPA's policies are an integral part of the ongoing programs and actions of King County.

Under SEPA (WAC 197-11-405: EIS types), an SEIS would be prepared if:

*There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts; or*

*There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts.*

Based upon present information, King County does not consider that a supplemental EIS is warranted.

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**Comment G-3.001**

1. We think that King County should not issue this permit at this time, when several key pieces of information are missing, namely:

1) the 4(d) rule for the ESA listed Puget Sound chinook salmon, 2) the ESA status review of Pacific herring, 3) the state's study of the nearshore environment, and 4) a complete summertime eelgrass survey.

People for Puget Sound

**Response**

King County is operating under its interim guidelines for ESA compliance and has coordinated with the National Marine Fisheries Service to ensure that King County's policies and programs are consistent with ESA. King County determined that further studies are not necessary to identify significant environmental impacts and/or mitigation measures regarding the proposal. Results from groundwater modeling and eelgrass inventories from the Ecology study have been factored into the FEIS. A summer eelgrass study was conducted by Jones & Stokes to verify and refine past studies, and that analysis has been incorporated into the analysis presented in the FEIS.

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**Comment G-3.003**

3. Ch. 1 Purpose and Background. On behalf of the members of People for Puget Sound, we respectfully request that the permit requested by Lone Star for the Maury Island Mine be denied. This proposal to remove seven percent of a small Puget Sound Island is clearly out of scale and inconsistent with our current understanding of the importance of nearshore marine habitat to the Puget Sound ecosystem.

People for Puget Sound

**Comment G-3.037**

37. Based on the information presented in this DEIS and our understanding of the nearshore ecosystem in the project area, we recommend that a permit not be issued for this project.

People for Puget Sound

**Response**

The People for Puget Sound's opposition to the project is noted. Impacts to the marine environment are documented in Chapter 6 of the FEIS.

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**Comment G-3.036**

36. Chapter 12. Should a permit be issued for this project, we feel that it is only appropriate that the applicant mitigate by donating the property to a conservancy organization with an endowment for its full restoration and use as a natural reserve.

People for Puget Sound

**Response**

Per WAC 197-11-660, Substantive authority and mitigation, this measure could be required only if it were (1) necessary to mitigate a specific adverse impact and (2) based on policies, plans, rules, or regulations formally designated by King County. King County will determine specific mitigation measures that would be required should the grading permit be approved. Government taking of property is not likely to be justifiable.

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**Comment G-4.001**

1. The Seattle Community Council Federation is privy to the comments of Seattle Council on Airport Affairs on this subject. We adopt their comments by this reference, and wish the responses in the Final EIS to reference the SCAA comments as also being those of SCCF.

Seattle Community Council Federation

**Response**

Comment noted. King County will consider comments by the Seattle Council on Airport Affairs as being also from the Seattle Community Council Federation.

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**Comment G-4.004**

4. To the extent that the DEIS relies on the proponent doing the right thing, the DEIS is asking for trouble. This proponent has a long track record of environmental violations, keeps getting into trouble wherever it goes. Its foreign owners do not seem to care - and are beyond the reach of our law. Its actual managers include at least one convicted felon - convicted of felonious environmental-law violations working for this corporate entity. A totally independent, totally honest, totally funded system of inspection and monitoring is required to deal with these criminals, in the case of Lone Star, and scofflaws, in the case of the Port Commission. The FEIS needs to provide that scoundrel-proof system.

Seattle Community Council Federation

**Response**

SEPA provides no allowance to consider activities at other sites unrelated to the project site unless the proposed action would have a significant impact on that other site. King County did inspect the Applicant's Dupont facility and found evidence of gravel spills. The County has thus included additional monitoring measures in the FEIS that would prevent similar occurrences at the proposed Maury Island facility.

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**Comment G-4.009**

9. The project would enable a bad project and should be denied out of hand on that ground alone. The DEIS fails to provide adequate measures to ensure the safety of on-site workers, site neighbors, workers moving the materials after they leave Maury, everyone at the delivery end, the places where these materials will find their new homes.

Seattle Community Council Federation

**Response**

Environmental Health and Safety impacts are evaluated in Chapter 10 of the EIS. See also responses to specific comments below under Chapter 10: Environmental Health and Safety.

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**Comment G-5.001**

1. Enclosed are the comments prepared on behalf of Citizens Against SeaTac Expansion (CASE). CASE is adamantly opposed to the granting of any grading permits to Lone Star. The DEIS is a poorly developed document and should be rejected out of hand.

Citizens Against SeaTac Expansion

**Response**

Comment noted. No further response is warranted without reference to specific matters of fact or law.

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**Comment G-5.019**

19. Why wasn't there a cumulative pollution analysis performed?  
Citizens Against SeaTac Expansion

**Response**

A cumulative pollution study is not required for this project, since it would not generate significant amounts of pollution.

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**Comment G-5.024**

24. What are the swell/compaction values for Maury Island fill when transported via a barge followed by a conveyor similar to the one proposed by Hank Hopkins of Material Transport in their Wetlands 404 permit request to the Corp of Engineers?

Citizens Against SeaTac Expansion

**Response**

There is no indication that swell and compaction values are relevant to a decision on this project.

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**Comment G-5.026**

26. The DEIS is wholly inadequate, it fails to address a number of significant issues. It is premature for DDES to consider the application until the Maury Island Aquifer Study is complete.

Citizens Against SeaTac Expansion

**Comment I-21.001**

...The Ground Water Spec. Dist. Overlay is to limit land use that has the potential to severely contaminate ground water supplies ... wouldn't this be enough on its own for King County to invoke SEPA authority to deny the Lone Star permit and extensive mining of our island home?

Alby Baker

**Comment O-1.510**

In conclusion, the DEIS does not meet the requirements set out for the preparation of such documents under the State Environmental Policy Act. It contains numerous instances of missing, inadequate, and erroneous information. Even given Jones & Stokes efforts to do everything possible to bias the DEIS in favor of the applicant, Jones & Stokes and the applicant can not conceal the devastating adverse impacts that the proposed project would have on Maury Island which can not be mitigated. The proposed revision to the existing Grading Permit must be denied. Please send me a copy of any decision made on this permit.

Ortman, David

**Comment O-1.516**

WAC 173-16-050(4) Islands. An island, broadly defined, is a land mass surrounded by water. Islands are particularly important to the state of Washington since two entire counties are made up of islands and parts of several other counties are islands. A fairly small island, such as those in our Puget Sound and north coast area, is an intriguing ecosystem, in that no problem or area of study can be isolated. Every living and nonliving thing is an integral part of the functioning system. Each island, along with the mystique afforded it by man, is a world of its own, with a biological chain, fragile and delicately balanced. Obviously it does not take as much to upset this balance as it would the mainland system. Because of this, projects should be planned with a more critical eye toward preserving the very qualities which make island environments viable systems as well as aesthetically captivating to humans.

Ortman, David

**Comment O-1.517**

I have reviewed a copy of the State Environmental Policy Act (SEPA) draft Environmental Impact Statement (DEIS) for the Maury Island Lone Star Gravel Mine. I am providing both general comments regarding the multiple inadequacies, missing, inadequate, and erroneous information in the DEIS, as well as specific comments, as required under WAC 197-11-550. I request that all comments, questions, and proposed changes be specifically addressed as part of any FEIS. I would also request that a copy of these comments appear in any FEIS, should one be prepared for this project.

Ortman, David

**Comment O-1.518**

Had Jones & Stokes, as preparers of the DEIS (p.1-2) taken seriously the state policy expressed above in WAC 173-16-050 (4) Islands, a DEIS might have been written less from the viewpoint of the applicant, Taiheijo Cement Corp., and more from the viewpoint of a biological chain, fragile and delicately balanced Puget Sound island threatened by a massive and permanent strip mining project.

Ortman, David

**Comment O-1.519**

(repeated) Overall this is one of the worst written DEIS I have reviewed in the last twenty years. It falls into the same class of inadequate DEISs as the recent Cross Cascade Pipeline DEIS. And it is no surprise to discovery that both inadequate documents were prepared by Jones & Stokes.

Ortman, David

**Comment O-1.520**

[(Reviewers must)] ...wade through technical appendixes in order to gain a basic understanding of impacts to groundwater and aquifers.

Ortman, David

**Comment G-1.003**

3. Our commenters found the subject DEIS to be much more helpful to the reader than the usual run of airport environmental studies. Our commenters were impressed that the authors of the DEIS actually recommended mitigation measures above and beyond those suggested by the proponent. Our commenters were impressed that the authors of the DEIS actually concluded that there were unavoidable adverse impacts, and spelled them out. It was gratifying to find that actual references to technical literature were included in the text of the DEIS. The EIS was remarkably well written, given the type of document that it is. We commend whoever took the time and trouble to convert engineering and technical jargon into straightforward English. We were particularly struck by the innovative technique of posing realistic questions of interest to potential readers and providing answers. This most-helpful method makes it much easier for the reader to find matters of interest by examination of the table of contents, and goes a long way to making up for the lack of a topical index - which would still be a good thing to provide. The FEIS should be at least as good as DEIS. We hope and request that the same care is taken, and the same format used, in the FEIS. Special care should be taken to cross-reference topics in the main text with comments on those topics and with the responses to the comments.

Seattle Council on Airport Affairs

**Response**

Comments and opinions noted. Specific responses to substantive comments are provided under specific topic headings in this volume.

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**Comment O-1.527**

Of all the components of the natural environment in Washington State, Puget Sound islands are recognized by the State of Washington as a unique, fragile and finite resource. They contain sole source aquifers and a limited carrying capacity. While development on a piecemeal basis continues to have a detrimental impact on Puget Sound islands, no single activity is more destructive or more irresponsible than the removal and diminishment of an island itself. The evaluation of this proposed mining project by Taiheijo Cement Corp. must be held to a higher standard.

Ortman, David

**Response**

The project is being reviewed according to SEPA and King County policy and code. The EIS considers that the site is located on an island.

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***State Environmental Policy (RCW 43.21C.020(2))***

**Comment O-1.525**

The entire DEIS is devoid of even the most basic quantitative information needed by a reviewer. In 1971, the Washington State Legislature established a State Environmental Policy that recognized “the profound impact of man’s activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource utilization and exploitation. . .” RCW43.21C.020(1)

Ortman, David

**Comment O-1.528**

In order to carry out the State Environmental Policy (RCW 43.21C.020(2)), it is the continuing responsibility of the state of Washington and all agencies of the state, including King County, to use all practicable means so that the state and its citizens may:

*(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.*

This proposed project fails this test. As the DEIS, states on p.S-2, “At full production, the site deposits could be mined out in 11 years.” As a trustee of the environment for succeeding generations,

King County cannot allow a mining project by Taiheijo Cement Corp. on Maury Is that depletes a non-renewable resource within a decade and permanently destroys part of a Puget Sound island.

*(b) Assure for all people of Washington safe, healthful, productive, and esthetically and culturally pleasing surroundings.*

This proposed project fails this test. Puget Sound islands are an esthetically pleasing part of our surroundings. As a trustee of the environment for succeeding generations, King County can not allow a mining project by Taiheijo Cement Corp. that removes up to 10% of Maury Island.

*(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.*

This proposed project fails this test. As a trustee of the environment for succeeding generations, King County can not allow a mining project by Taiheijo Cement Corp. to proceed when it has such undesirable consequences.

*(d) Preserve important historic, cultural, and natural aspects of our national heritage;*

*(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice.*

*(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities.*

This proposed project fails this test. As a trustee of the environment for succeeding generations, King County can not allow a mining project by Taiheijo Cement Corp. to proceed which would allow a short-term eleven year use of a site at the expense of Maury Island.

*(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.*

This proposed project fails this test. As a trustee of the environment for succeeding generations, King County can not allow a mining project by Taiheijo Cement Corp. to proceed in the absence of approaching the maximum attainable recycling of depletable resources such as sand.

Ortman, David

**Response**

Mining is not categorically unacceptable under applicable King County policies and regulations. The EIS contains information on the distinct features of Maury Island, including the presence and importance of the sole-source aquifer and other sensitive shoreline areas. Impacts on these features are addressed in the EIS and will be factored into decisions regarding the proposal.

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**Alternatives****Comment**

2. The Times editorial tonight clearly discussed 270 acres. Please note, we have consistently asked what the permit for the 35 acres across from upper Gold Beach included and have been apprised by King County DDES it was not part of the EIS review or the current permit review. As someone, but not this community, provided the information that the additional 30 to 35 acres was involved in the mining operation, I wish to formally object to the DEIS not including information about that parcel. Again, as the editorial board and the writer of the Times did not contact me, I would assume the proponent or their public affairs firm determined the correct acreage should be discussed (The DEIS, of course, only discusses the 235 acre site). Please note the information in news articles, which we have provided you in our responses to the DEIS, regarding issues about a similar problem at the DuPont site.

I therefore submit that the DEIS is not adequate and needs to be revised to include all properties Taiheiyo Cement and/or any of its subsidiaries owns/leases on Vashon/Maury Islands and which they intend to use for any purpose. The scope of the project has changed based on the information provided today by the Times and, therefore, the DEIS is totally inadequate. . . . What role does the 30 to 35 acres across from Gold Beach have? Please provide a copy of the permit, and consider this a FOIA request for any other information available regarding that parcel. Please provide information regarding whether any discussions/conversations with Lone Star (or their agents) have occurred regarding this parcel.

Sharon K. Nelson

**Response**

The EIS evaluates the Proposed Action as submitted by the Applicant, which is described in Chapter 2.

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**Comment C-12.001**

Lone Star chose alternative action plans that offer little to no alternative impact assessment. . . . It seems evident that Lone Star intended its choices to present the impression that alternatives will

not significantly mitigate any impact in comparison to the proposed action.

St. George, Brian

**Comment**

Lonestar specifically chose “alternative” actions that offer little to no alternative impact assessment. The EPA often uses this ploy to save time and money. It seems evident to me that Lonestar intended its choices to present the impression that alternatives will not significantly mitigate any impact in comparison to the proposed action.

Brian St. George

**Comment O-1.524**

A DEIS should contain a real display of alternatives, including other uses than mining. For example, acquisition of the site for a park should be considered a feasible alternative and evaluated in Chapter 2. Please include such an alternative.

Ortman, David

**Comment**

The Nature Conservancy, the Trust for Public Land, the Land Conservancy or the Vashon-Maury Island Land Trust might negotiate a transaction such as was done a few years ago with the adjacent Maury Island gravel mine now a King County Regional Park site. Isn't purchase of the Lonestar property by a public entity an alternative undisclosed by the EIS?

Joel Kuperberg

**Comment**

Alternatives 1 and 2 are laughable. These are not alternatives, as the potential environmental impacts remain the same. The State Environmental Policy Act requires thorough alternatives analyses, not lip service. The only acceptable alternative is the No-Action alternative. Section 2.5.1, Paragraph 4 should be carefully considered. King County needs to clarify the meaning behind the nuance and tone of this paragraph. Clarification of the phrase “legal challenges or other forms of negotiations” should be issued immediately (as attorneys should take note). We spend enough of our money trying to defend ourselves from the County; we don't need to spend more of our taxes for the County to defend itself because of ambiguous portents.

Matthew Boyle

**Comment G-1.002**

2. This project is excessive in scale, and should be limited in terms of hours and days of operation. This project is fraught with technical, environmental, and social problems. It is totally inappropriate to consider a mining activity of such magnitude on this small island without acknowledging the devastating effect on the people and the environment. The proponent seeks to increase its mining activity at the site by 75,000%. At the old rate of

excavation, the resource would have been removed very gradually, over a span of two to four millennia, allowing ample time for adjustments by residents, changes in land-use plans, regrowth of vegetation, and the like. It would be wise to abandon this project.

Seattle Council on Airport Affairs

**Response**

King County has considered several alternatives in the EIS, including two alternatives of reduced hours of operation and numerous other alternatives in the form of mitigation for significant adverse impacts.

SEPA requires that alternatives must attain or approximate the project's objectives. Therefore, turning the site into a park is not a reasonable alternative, nor is it within King County's decision-making authority, since the site is privately owned.

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**Comment**

The DEIS is inadequate and fails to address significant issues and/or data including:

3. The nearshore information in the draft EIS indicates an additional study will be done prior to fall 1999. Without the additional study, the EIS is incomplete and an analysis and/or conclusions cannot be adequately performed.

6. The No-Action Alternative defined in the DEIS essentially indicates that No-Action will be at 10,000 to 20,000 cubic yards per year, or whatever King County negotiates with the applicant. The definition is vague and impossible to analyze in relation to impacts, as a negotiated settlement could be any possible scenario.

Alan R. Huggins; verbatim comments from Cynthia and Kyle Cruver

**Response**

Comments noted. King County has extensively analyzed the marine environment at the site. The No-Action alternative is based on SEPA guidelines (WAC 197-11).



### 1.1.3 Who is Preparing this EIS and Making the Decision

#### ***Qualifications of EIS Authors***

***Comment***

10 (of 22). Chapter 4 consistently refers to the King County EIS consultant team, please identify who they are, and their professional credentials.

Sharon K. Nelson

***Comment O-1.504***

WAC 197-II -440(2)(e) requires that the authors and principal contributors to the EIS and the nature and subject area of their contributions must be listed. Jones & Stokes has failed to provide this basic information in the DEIS. Therefore the DEIS is in violation of the SEPA regulations.

Ortman, David

***Comment O-1.502***

However, based on piecing together other information, the following appear to be among the authors and principal contributors to the DEIS. It appears that these Jones & Stokes employees and their associates do not have educational qualifications in the expertise for which they have been assigned.

Ortman, David

***Response***

EIS authors are commonly defined by agency or firm, rather than by individuals. However, in response to your comment, the FEIS has been revised to identify individual authors.

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***Comment O-1.503***

Grant Bailey - B.S. in Biology but contributed to the Transportation section; Steve Hall - B.S. in Wildlife Management, but contributed to the Light, Glare, Aesthetics; Recreation; and Land and Shoreline Use sections; Chuck Lie - B.S. in Geological Science, but contributed to the Environmental Health and Safety section.

Ortman, David

***Comment O-1.503***

For each of these individuals, please indicate what additional training they have had that qualifies them to contribute to the sections cited above.

Ortman, David

***Response***

The authors of the DEIS have worked on EIS teams for many years and are qualified to prepare EISs, including the sections that they contributed to. Grant Bailey is a senior-level SEPA specialist and was project manager for the proposed Weyerhaeuser Dock project

in Dupont, where he was very much involved in marine transportation issues.

The Project Manager, Steve Hall, has served on more than 40 NEPA and SEPA interdisciplinary teams and has served as interdisciplinary team leader for NEPA/SEPA analysis for the National Park Service, King County, the Bonneville Power Administration, and the Washington Parks and Recreation Commission.

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### **Credibility of Jones & Stokes**

#### **Comment O-1.521**

In fact, on 8 June 1999, the Seattle Corps District Engineer took the unprecedented step of filing written objections to Jones & Stokes' Cross Cascade Pipeline DEIS.

*I have found that a revised DEIS is needed. The issues of missing, inadequate, and erroneous information in the current DEIS require a rewrite for another Federal agency review. My staff has reviewed the DEIS, as well as extensive comments provided by Federal, State and local agencies, private individuals, and oppositions groups. My staff has found that many of the substantive comments the Corps provided to the USFS in our three submittals of written comments on the preliminary DEIS and DEIS have not been incorporated. If the EIS does not address the substantive issues that the Corps has found to be either missing, inadequate, or erroneously presented in the DEIS, I will not have adequate information to make a decision on the proposal.*

The following agencies have also called for a revised or supplemental DEIS due to overwhelming issues of concern regarding the adequacy and accuracy of the DEIS: U.S. Environmental Protection Agency; Washington State Department of Natural Resources; Washington State Counsel for the Environment; Washington State Department of Ecology; Washington State Department of Fish and Wildlife; Grant, Adams, King, and Kittitas Counties. Such a record of missing, inadequate, and erroneous information that is consistently biased in favor of the applicant raises the question of how King County can have any confidence in Jones & Stokes as the preparer of this DEIS. It calls into question the competency of Jones & Stokes to prepare EISs in the first place and why Jones & Stokes should not be barred from contracting with King County for future EIS work.

Ortman, David

**Response**

King County has included Jones & Stokes in their list of consultants qualified to prepare complex EIS analyses. This is based on their staff and demonstrated experience preparing EISs. Draft EISs of controversial projects often receive negative comments. The EIS referenced in the comment was prepared under the direction of the U.S. Forest Service and the Washington Energy Facility Evaluation Commission.

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**Comment O-1.522**

Has Jones & Stokes performed any other work for the applicant? If so please disclose the date and nature of any such work.

Ortman, David

**Response**

Jones & Stokes is preparing this EIS under contract to King County. Jones & Stokes has not worked for the Applicant.

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**Comment O-1.519**

(repeated) Overall this is one of the worst written DEIS I have reviewed in the last twenty years. It falls into the same class of inadequate DEISs as the recent Cross Cascade Pipeline DEIS. And it is no surprise to discovery that both inadequate documents were prepared by Jones & Stokes.

Ortman, David

**Response**

Comment noted. Responses are provided under specific claims.

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**Comment O-1.523**

Not only is the competency of Jones & Stokes called into question by this DEIS, it is now clear that in the past Jones & Stokes has actively worked an behalf of applicants to narrow the purpose and need scope and review of draft Environmental Impact Statements. This is documented by a 25 October 1996 memo from Grant Bailey (Jones & Stokes) to Steve Johnson (USFS) and Allen Fiksdal (EFSEC) regarding the Cross Cascade Pipeline DEIS. In this memo, Mr. Bailey states that “My initial opinion on Need was that the Corps and USFS should examine all alternatives to getting fuel to Pasco - in particular, the other two pipelines. Now that I’ve thought about the economics a little more, about the need for the decision-maker to have useful alternatives, and information for a useful decision, I’ve changed my mind for this project.” Mr. Bailey, on behalf of Jones & Stokes, directly advised both USFS and EFSEC that they did not need to carry out a real alternatives analysis under the National Environmental Policy Act. When consultants take over the role from decision-making

agencies of determining the purpose and need for a project, their work should be terminated.

Ortman, David

**Response**

Analysis and documentation under both SEPA and the National Environmental Policy Act (NEPA) are a major part of Jones & Stokes' services. Jones & Stokes has prepared more than 100 SEPA and NEPA EISs, and none has ever been ruled inadequate. Jones & Stokes' role in the EIS process cited above was to assist EFSEC and the USFS in NEPA and SEPA compliance. Recommendations about alternatives and other aspects of SEPA are well within the normal function of a consultant on an EIS and were, in fact, part of Jones & Stokes' responsibilities under their contract. EFSEC and the USFS were actively involved in preparation of the document and had final say about the DEIS contents, including the range of alternatives to be considered.

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**Comment O-1.381**

Why are exploration pits labeled EB-X in the legend but EP-X on the map (Figure 10-2)? Is Jones & Stokes capable of producing a map that is not riddled with errors?

Ortman, David (repeated in Ch. 10).

**Response**

This factual error has been corrected in the FEIS.

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**Comment I-15.001**

EIS is written by Lone Star consultants. How can they possibly be unobjective?

Beverly Skeffington

**Comment I-3.014**

... the consultants who conducted and wrote the DEIS are in fact the same consultants that Lone Star has been using to define its position. ... it is not objective ... [DEIS] reads more like an advocacy statement with an agenda

Judith Wood Pearce

**Response**

Jones & Stokes is an independent contractor working for King County, not for the Applicant, and is not now and has never been under any contract with the Applicant. Applicant supplied data is regularly used under SEPA (see response to following comment).

### ***Use of Applicant-Supplied Information***

**Comment O-1.383**

10.2.1 p. 10-2 In a 22 February 1999 e-mail from Steve Hall of Jones & Stokes, Jones & Stokes admits to recommending that King County use the applicant's consultant (AESI) to conduct additional groundwater testing. Is allowing the applicant's consultant to carry out critical data gathering a normal policy when Jones & Stokes is suppose to be carrying out an independent analysis of the project for King County? Why did King County go along with Jones & Stokes recommendation to allow the applicant's consultant to carry out critical test results when the applicant's consultants have previously underestimated arsenic contamination on the site?

Ortman, David

**Response**

Applicant-provided data is common for SEPA assessments and use of such data complies with SEPA and King County Code. Per WAC 197-11-100 Information required of applicants:

*Further information may be required if the responsible official determines that the information initially supplied is not reasonably adequate to fulfill the purposes for which it is required.*

The use of the term "admits" in the comment implies wrongdoing or an error. This is not the case. The recommendation was made simply because it was the most efficient and timely way to obtain the data. AESI was already present onsite conducting monitoring of existing wells.

It is important to note that King County and its consultant specified the methods to be used and that the Applicant's consultant only collected data, but did not provide conclusions regarding impacts and/or significance. Conclusions regarding impacts, significance, and mitigation measures were prepared independently by King County and its consultants.

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**Comment O-1.384**

Please clarify that the applicant hired and paid for the work conducted by AESI on The Potential Water Quality Impacts and Mitigations report and the Soils, Geology, Geologic Hazards, and Groundwater Report prepared for the environmental checklist and the "revised addendum report" on groundwater that includes additional groundwater testing.

Ortman, David

**Response**

These reports were provided by the Applicant, and were presumably paid for by the Applicant. Applicant-supplied data is a normal and acceptable practice under SEPA and King County Code. Conclusions regarding impacts and significance were made based solely on the judgment of King County and/or its consultants.

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**Comment O-1.368**

As mentioned previously, Jones & Stokes strongly recommended that the applicant's consultant, AESI, be allowed to carry out groundwater monitoring tests for the DEIS. However, according to Appendix B it appears that applicant's consultant, AESI, performed only a limited testing of selected soil samples on the Lone Star Site in 1998 which was completely to the benefit of the applicant in that AESI's limited results showed no significant arsenic contamination of soils on the site (85ppm compared to the MTCA standard of 200ppm, Table 1, Appendix B, p.3). Because these results were so self-serving, local citizens requested that additional field sampling and analytical testing be performed by Landau Associates. This time the applicant hired AGRA who obtained split samples. However, according to Appendix B, p.4, "The samples taken by AGRA were not sieved to remove particles larger than two millimeters, as required by standard test methods." So once again, the applicant's consultant can not be relied on to follow standard test methods or to produce unbiased results, and yet Jones & Stokes strongly recommended that the applicant's consultant be allowed to gather the test data for the EIS. Why does Jones & Stokes promote the use of applicant consultants for the preparation of a DEIS when the applicant's consultants can not be relied on?

Ortman, David

**Response**

As part of the initial work conducted for this project, Jones & Stokes reviewed Applicant-provided studies contained in the SEPA Checklist. During this review, Jones & Stokes recommended that additional wells be drilled to monitor groundwater levels at more locations, particularly at the site boundaries.

Since the Applicant was already onsite conducting monitoring, and since the Applicant would be collecting data using standard methods (as stipulated by King County), the most efficient and timely way to obtain the data was to have the Applicant's consultant drill and monitor additional wells. The time and expense required to find a drilling consultant, develop a scope of work, and prepare a contract between Jones & Stokes and King

County, a contract between Jones & Stokes and Terra Associates, and a contract between Terra Associates and a well drilling firm was an unnecessary complication that would delay obtaining the data, create additional expense and bureaucracy, and produce no benefit.

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**Comment O-1.369**

This section states that studies conducted for this EIS found levels of arsenic in project site topsoils ranging from 6 to 330 ppm. As stated above, this is not entirely correct. The applicant's consultant, AESI, conducted such tests but failed to find arsenic levels above 85 ppm. (Table 1, Appendix B, p.3). Even with split samples, the applicant's consultant, AGRA, using non-standard test methods found lower arsenic levels. Therefore, please add the following paragraph to this section (O-1.370):

*Applicant's consultants conducted tests that failed to properly characterize the soil contamination of the site and were designed to mislead King County concerning the degree of contamination of the site. Even knowing of this deception, Jones & Stokes convinced King County to allow the applicant's consultant to conduct the groundwater sampling as part of the data for the DEIS. Ortman, David*

**Response**

King County and its consultant were aware of these inconsistencies. However, all of the testing referenced in the comment were conducted solely on the initiative of the Vashon/Maury Island Community Council and/or Deep Impacts (a citizen's advocacy group). These studies conducted outside of King County's control resulted in more confusion and accusations than information related to a decision. To prepare the DEIS, King County conducted its own independent study and used this information to identify impacts and mitigation measures. This analysis is presented in the FEIS.

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**Comment O-1.372**

(repeated) Chapter 10.2.2 states that groundwater levels of contaminants are within natural levels. Even so, testing by AESI, the consultant's applicant, found arsenic groundwater contamination as high as 0.004 ppm, compared to the MTCA ground cleanup level of 0.005 ppm. But this testing was done by the applicant's consultant, whose work has previously been shown to be faulty and biased. King County must conduct new groundwater testing by consultants that are not paid by the

applicant.  
Ortman, David

**Response**

King County has reviewed the methods and results and has used this information to make independent conclusions. Based on this review, King County found no evidence of faulty data.

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***Relationship of the EIS to the “Ecology Study”***

**Comment I-2.034**

Due to the unprecedented magnitude of the operation that process should include the \$250,000 wisely appropriated by the State of Washington for a study to the impacts of the Lone Star Mining on the Maury Island aquifer.

Rose Clark

**Comment G-5.002**

2. The intent of the State of Washington, which passed a Maury Island Aquifer funding/study measure that is to be completed by June 2000, should be considered. It would be inappropriate for King County to completely dismiss this important study. Why doesn't the DDES defer this EIS until the Maury Island aquifer study authorized by the State of Washington is complete in June 2000?

Citizens Against SeaTac Expansion

**Comment C-7.007**

Why isn't the EIS deferred until the Maury Island aquifer study is complete in June 2000?

Brown, A.

**Comment I-3.013**

Data in the DEIS is not based on any unbiased, scientific studies, and in fact its conclusions will not even wait to take into consideration several studies that will be conducted on some of these critical issues.

Judith Wood Pearce

**Comment I-11.004**

... independent aquifer study ... The final EIS should at least wait for these results in order to make an informed determination of significance.

Elizabeth Parrish/John Rees

**Response**

King County carefully reviewed the premise and objectives of the Ecology study and found that the focus would provide more refined analysis, but would not result in information necessary to identify impacts and mitigation measures and/or for making decisions regarding the proposal. The Ecology information would be most useful during project design and implementation.



Nevertheless, a good deal of the Ecology information was incorporated into the FEIS.

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## **1.2 Overview of Applicant's Proposal**

### **1.2.1 Applicant's Objectives**

Many comments questioned the need for the project. Two major concerns were raised: first, that the Applicant and/or King County has failed to establish a clear need for the proposal and, second, that, if indeed a need exists, that other sites should be considered. To address these and other comments, this section has been added to the FEIS to describe the project objectives, and the scope of the decision to be made.

#### ***Market Demand***

***Comment O-1.041***

On p. S-2, Jones & Stokes' DEIS notes that "the Applicant operates several mines in the region, the Maury Island site contains a high amount of quality fills, products that are not as abundant at other sites operated by the Applicant."

Ortman, David

***Response***

This is one of the Applicant's stated purposes for the proposal.

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***Comment G-4.007***

In this discussion, it would be helpful to have a more candid disclosure by the proponent of his potential markets. How much material does it contemplate shipping into downtown Seattle—downtown Bellevue? Hospital projects? School projects? Are there contracts already in place? Deals that simply await an administrative go-ahead to become actualized?

Seattle Community Council Federation

***Comment I-17.012***

Where is it projected that this increased demand for gravel will come from when County regulations slow growth to a sustainable level?

Joshua Putnam

***Comment I-6.035***

What compelling market analysis and forecast documentation has been provided with the permit application to demonstrate that this is a critical need worthy of overlooking the substantial

unmitigatable environment damage that the project would cause?  
Alan Gorski

**Comment G-2.005**

Chapter 1 1 2 The justification for the project is not identified. On page 5-2 it states “the applicant’s purpose and need for this project is to meet the anticipated high market demand for sand and structural fills.” What contracts are up for bid that would require sand and gravel of this magnitude? It states the applicant operates several other sites in the area - where are these located and what are the available resources of these locations? Could these or other sites act as alternative sources?

Washington Environmental Council

**Comment O-1.508**

If compact soil is also structural fill, why is there a demand for the Maury Island deposits?

Ortman, David

**Comment O-1.509**

If sand is not used for structural fills, what is the high market demand for sand used for?

Ortman, David

**Comment I-14.007**

... to meet local needs, the present sand and gravel company on the Island is capable of meeting local requirements. ... Lone Star mining is just not needed

Eugene A. Smith

**Comment**

S2.1 The explanation provided to support the “Purpose and Need” of this particular site is that “the Maury Island site contains a high amount of quality fills, products that are not as abundant at other sites operated by the applicant”. This justification raises the questions of how the applicant has been able to supply lower quality materials to clients for the past 20 years, but now finds it necessary to increase the quality of delivered materials. This rationale seems weak and should be strengthened.

J. Michael Kuperberg, Ph.D.

**Comment**

S2.3 The proposed 286 fold increase in mining operations assumes that large “off-island markets” will be identified and supplied by the applicant. Are any such markets currently available to the applicant? If so, is it only the quality of the Maury Island materials that makes this site attractive to the applicant (and the market)?

J. Michael Kuperberg, Ph.D.

**Response**

Under SEPA, the Applicant is not obligated to prove a need for the project, nor must need be established for a lead agency to review a proposal under SEPA. King County may, however, consider the Applicant’s needs and associated public benefits (if any) in making

decisions regarding this project, particularly when considering unavoidable significant adverse impacts.

The Applicant's belief in potential markets can be assumed to some degree in light of the considerable expense and effort needed for permitting and environmental review of the application. In addition, the region has and will continue to grow, and with such growth will come demand for sand and gravel.

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**Comment O-1.506**

Please provide a list of any known construction projects in the "Puget Sound region" that currently or in the future require more than 10,000 tons of sand.

Ortman, David

**Response**

This information is not necessary to identify and evaluate environmental impacts regarding the proposal.

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**Comment O-1.505**

p. S-i Proposal Objectives. This section states that Taiheijo Cement Corp. wishes to barge "mined material" 24 hours a day, 7 days a week in order to win contracts". It appears that Taiheijo Cement Corp. is requested a permit based solely on speculative future contracts.

Ortman, David

**Comment C-8.024**

Please describe which contracts Lone Star is considering which require loading of barges at night. The demand for barges to be available first thing in the morning, thus requiring all night loading, is not proven or adequately discussed in the DEIS.

Vashon-Maury Island Community Council

**Response**

Based on King County understanding, the Applicant wishes the permit to be as flexible as possible. This makes sense from their perspective, since in most cases, restrictions reduce flexibility and may lower production rates and profitability. The market for sand and gravel is cyclical and can peak due to high-demand projects or increases in construction due to economic factors. The Applicant wishes to be able to respond to these peaks. If the permit is approved, King County would place conditions on the project under WAC 197-11-660 Substantive authority and mitigation.

## 1.2.2 Applicant's Proposal

### **Comment G-3.005**

5. SEPA requires the applicant to adequately explain why the need—in this case for sand and structural fills—cannot be met elsewhere with less environmental impact. The DEIS fails to mention—much less discuss—other Lone Star mines currently in operation or other mines in the region or in Canada that might fill the need. One of the needs cited is fill for SeaTac's third runway (an estimated one-third of the capacity at the Maury Island site, as currently proposed). But recent discoveries of wetlands at SeaTac have required the Port of Seattle to upgrade their fill requirements to accommodate an increase in slope, and it is not at all clear that the Maury Island materials could meet this requirement. The second likely local need for large amounts of fill is the ASARCO cap. But the federal government has recently announced that they will stop issuing contracts to companies that repeatedly violate environmental laws. Considering Lone Star's history of flagrant violations of environmental laws, it seems unlikely that a federal Superfund contract would be awarded to them for this project. The needs assessment is not only inadequate, it is absent.

People for Puget Sound

### **Comment I-6.032**

Have options to undertake the project at other locations (outside of the Puget Sound's most economically valuable viewscape) been identified and evaluated?

Alan Gorski

### **Response**

Per WAC 197-11-440, EIS Contents, when a *proposal* is for a private project on a specific site, the lead agency shall be required to evaluate only the "No-Action" Alternative plus other reasonable alternatives for achieving the proposal's objective on the same site.

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### **Comment O-1.064**

This section (2.2.2) states that when demand for sand is low, the level of operation at the site would also be low. Please provide an explanation for why Taiheijo Cement Corp's needs a permit for 7.5 million tons when they anticipate that "the site would be idle for periods of time".

Ortman, David

### **Response**

The market for sand and gravel is highly variable since it reflects the overall economy and growth of a region. As proposed, production at the Maury Island site would mirror that variability.

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**Comment I-1.038**

The applicant is concerned about losing gravel contracts to other sources ... The site of the proposed action is not uniquely needed to serve any societal imperative in or near King County.

Frank Shipley

**Response**

Comment noted. King County may consider societal benefits when making decisions regarding this project.

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**Comment O-1.537**

On page S-5, Jones & Stokes' DEIS notes the high demand for gravel in the Puget Sound region: "It is important to note that should King County decide to not approve the applicant's proposal, something other than the "No Action" Alternative evaluated here may result, particularly in light of the current and expected high demand for gravel in the Puget Sound region." But elsewhere, Jones & Stokes' DEIS states that "The site contains mostly sand and some gravel. . ." p. 1-5 and "Gravel would be stockpiled until about 40,000 or 50,000 tons have been collected (which, based on known geologic conditions, would take about 3 to 4 years to accumulate)." p.2-S. In other words, Jones & Stokes projects a high demand for gravel, which is not a major component of this site (taking years to accumulate), but fails to establish any current demand for sand.

Ortman, David

**Comment O-1.323**

Once again, Jones & Stokes contributes to misinformation about the site. On page 1-5 Jones & Stokes states that "[T]he site contains mostly sand and some gravel. . ." ,but here on page 8-4 claims that there is less demand from areas north of Seattle because of "other available gravel sources". Please provide a map showing all other Puget Sound sources of sand and/or gravel material from active mining areas.

Ortman, David

**Response**

A map showing all sources of sand and/or gravel in the Puget Sound region is not relevant to the environmental review of the proposal on this site. King County's SEPA analysis and decision is limited to this site and this project, and, per WAC 197-11-440, EIS Content:

*When a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site.*

The terms *sand*, *gravel*, and *fill* were used interchangeably in the DEIS. Page 8-4 of the DEIS described the study area. Areas further north are expected to be less frequent points of delivery due to lower population, greater distances from Maury Island, and closer gravel sources.

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**Comment O-1.507**

pp. S-I, 2 WAC 197-11440(4) requires that the EIS shall “briefly state the proposal’s objectives, specifying the purpose and need to which the proposal is responding ...”.

Ortman, David

**Response**

The DEIS defined the proposal’s objectives in general terms on page 1-1, where it summarizes the Applicant’s proposal as a request to “significantly increase mining over current levels at its 235-acre Maury Island sand and gravel mine.”

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### **1.2.3 Other Permits Required for the Applicant’s Proposal**

#### ***Permitting in General***

**Comment I-10.004**

... permits should be granted for a short period of years, such as 3, with no additional time, regardless of the market for gravel

Charles Adams

**Response**

King County is aware that decisions regarding the proposal could have effects for 50 years or more and has incorporated ongoing monitoring, review, and corrective procedures. At the same time, King County wishes to conduct a comprehensive environmental review now and to make firm and lasting decisions regarding the proposal. Conditions requiring monitoring and reporting would serve to provide long-term environmental review and protection.

Moreover, many other permits and laws apply to this project, and it is reasonable to assume that the project would comply with these laws. Per WAC 197-11-158 GMA project review--Reliance on existing plans, laws, and regulations:

*(1) In reviewing the environmental impacts of a project and making a threshold determination, a GMA county/city may, at its option, determine that the requirements for environmental analysis, protection, and mitigation measures in the GMA*

*county/city's development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws or rules, provide adequate analysis of and mitigation for some or all of the specific adverse environmental impacts of the project.*

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**Comment**

The Seattle Times today [20 September 1999] stated in an editorial that the King County Council (or some political entity, we assume) has control of the permit for the Lone Star site. We have been repeatedly advised this is a NON-POLITICAL DECISION, however, as the Times editorial writer did not contact us, we assume this information has been provided by the proponent or their public affairs firm. We ask that either King County ask the Times for a correction or we will assume that the Times has information from the proponent or the proponent's public affairs firm to which we have not been privy and that King County DDES is not responsible for the decision on the mine, but rather the Council or Executive Sims is. If King County Council or Executive Sims has the ability to approve or disapprove the permit, we ask to be immediately apprised. If not, I ask that you please apprise the Times and the proponent as to the approval process as the public will now be confused regarding the permit. ... a. Is this a decision for King County Council or is the information we have received to date, regarding a decision being forthcoming from DDES being accurate?

Sharon K. Nelson

**Response**

The decision is being made by DDES. The King County Council has no decision-making role in review of the grading permit or SSDP.

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**Comment**

1. The Seattle Times, 9/16/99, article by Linda Keene, indicated that Ron Summers, General Manager of Lone Star N.W., has indicated that "When bids are put out for the dirt (third-runway), probably next year, ... Maury Island will be a top contender." Please correct the DEIS and its discussion of the conveyor in Des Moines and/or bargaining to include the fact that Lone Star is intending to bid on a project which includes Federal Funding -- Sea Tac's Third Runway. Further, I believe King County should be discussing the requirements for a NEPA review due to Mr. Summers comments to the press with Federal agencies, including NMFS and the U.S. Army Corps of Engineers. Discussion in the DEIS of tug traffic/mitigation clearly states that

Des Moines is a “high-potential delivery point for the Proposed Action.” Now, Mr. Summers has confirmed through the press that that delivery point is for the Third Runway. Not listing Sea-Tac to avoid a NEPA determination is inappropriate.

Sharon K. Nelson

**Response**

NEPA applies to federal actions only. King County’s decision to issue a grading permit is a non-federal action. The U.S. Army Corps of Engineers, NMFS, or USFWS may need to apply NEPA to their decisions regarding other permits, but such permits are not within King County’s authority.

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**Comment C-8.015**

Describe the process and requirement for each of the additional permits needed and citizen input. Shoreline Substantial Development permit, MTCA remediation, Hydraulic Project approval, PSAPCA (air emissions), NPDES, harvesting permit from DNR.

Vashon-Maury Island Community Council

**Response**

All of these permits are subject to public review. See response to comments under Chapter 9 for issues related to the Shoreline Management Act.

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**Comment I-9.001**

... the county must ensure that all other permits and associated review have been completed before any grading permit is issued. A decision to issue this permit without this additional information would be arbitrary and capricious and against County mandates.

Cyndy Mackey

**Comment**

Lonestar must obtain at least six permits from King County, several state and federal agencies. Processing all of the permits simultaneously allows regulatory agencies to exchange scientific data and thereby better evaluate total impacts. Florida adopted this process in the 1970s. Shouldn’t King County require that Lonestar apply for all necessary local, state and federal permits for this largest gravel mine in the state before issuing a permit that will tend to force other agencies’ hands in permitting?

Joel Kuperberg

**Response**

Acquisition and compliance with permits required under governing regulatory authorities would be binding conditions of any grading permit, should King County decide to issue a new permit. Per King County Code, Chapter 16.82.060, “no grading permit shall be



issued until approved by federal, state, and local jurisdiction by laws or regulations.”

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### ***Shorelines Substantial Development Permit***

***Comment O-1.011***

It states that potential measures may be applied to the Grading Permit by King County through the County’s discretionary authority under SEPA. Please add that conditions may also be applied to any Shorelines Substantial Development.

Ortman, David

***Comment O-1.003***

Section 1.1.2 , p.1-1. This section states that SEPA requires that King County disclose and consider the environmental impacts of their actions. Jones & Stokes claims that the only County action in this case is the revision of an existing Grading Permit. This is incorrect. King County must also issue a Shorelines Substantial Development Permit, before the proposed project can proceed. Please amend this section to include this permit as part of the SEPA process, as well.

Ortman, David

***Response***

The EIS evaluates the environmental consequences of the grading permit. SEPA compliance for permitting under the Shoreline Management Act may incorporate analysis and conclusions evaluated in this EIS.

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### ***Surface Mining Reclamation Permit (DNR)***

***Comment C-8.020***

Identify whether harvesting permits from DNR are required and if so, whether they have been obtained. The reclamation program has no assurance of delivery. Unless the reclamation permit is acted upon by DNR and made part of this record, the applicant’s suppositions about what might take place have no validity.

Vashon-Maury Island Community Council

***Response***

The EIS evaluates the Applicant’s proposed mitigation and reclamation and includes additional measures that will be considered in the decision. Per King County Code, Chapter 16.82.060, “upon approval of the application and issuance of the grading permit, no work shall be done that is not provided for in the permit. The director is authorized to inspect the premises at any reasonable time to determine if the work is in accordance with the permit application and plans.”

### ***DNR Aquatic Lands Lease***

***Comment A-1.001***

Section 1.1.2 p. 1-3 The DNR lease does not “permit mining, processing, and reclamation activity”. The mining activity could occur without the DNR lease for the dock.

Washington Department of Natural Resources

***Response***

The sentence refers to all approvals which, collectively, allowed mining and associated barging to occur at that site, not just those made by WDNR.

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### ***Endangered Species Act Compliance***

***Comment A-1.002***

(p. 1-3) The required consultation with NMFS to comply with Section 7 of the Endangered Species Act should include the potential use of the sunken barges by the brown rockfish, currently petitioned for listing.

Washington Department of Natural Resources

***Comment G-2.006***

Section 6.1.2 states that a consultation between the Army Corps of Engineers and U S Fish and Wildlife Service and NMFS would be required to comply with Section 7 of the Endangered Species Act. When is this to occur? What species of animals are to be identified and evaluated in this consultation? When are the results to be posted?

Washington Environmental Council

***Response***

Endangered Species Act compliance, along with other federal and state permitting, will be required prior to approval of the permit, per King County Code Chapter 16.82.

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### ***Section 404 (Wetland Permit)***

***Comment O-1.007***

This section states that a permit under Section 404 of the Clean Water would also be required for work on the dock because the shoreline is a designated wetland. While the shoreline is a designated wetland, this does not correctly identify the jurisdiction of the Section 404 program. Please add the following statement, “Under Section 404, a permit is needed from the Corps of Engineers for the disposal of dredged or fill material into the navigable waters at specified disposal sites.”

Ortman, David

**Comment C-8.017**

How was it determined that there is no wetland vegetation located on the site? Why then is a Section 404 permit required? Section 1.3.3 contradicts the required permits listed in Section 1.2.1. Please correct the EIS to reflect the wetlands on the property. Ensure that the shoreline's importance as a wetland is noted and a proper survey is obtained.

Vashon-Maury Island Community Council

**Comment I-2.032**

Will this project require the issuance of either or both an Army Corps 404 Permit or the Department of Ecology 401 Permit? ... If so ... these permits should be delayed until these processes have concluded.

Rose Clark

**Response**

Per Chapter 16.82, King County will not issue a grading permit until federal and state approval of wetland work is completed. Marine wetlands are described in detail in Chapter 6 of the FEIS. Other wetlands are not present on the site, as determined by site inventories.

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***National Pollution Discharge Elimination System (NPDES) Permit***

**Comment**

This section is suppose to list other permits required for Taiheijo Cement Corp.'s proposal. It does not. Jones & Stokes appears to have misled both decision-makers and the public by failing to list all the permits required. On page 24 of Appendix A it states, "The proposed borrow pit is covered under the Clean Water Act. The proposed borrow pit is required to have a National Pollution Discharge Elimination System (NPDES) permit." Please explain why an NPDES permit is not listed in Sec. 1.2.1.

Ortman, David

**Comment O-1.439**

4.3 p. 24 It states that the proposed borrow pit is required to have a National Pollution Discharge Elimination System (NPDES) permit. Does the current pit have an NPDES permit? Has Taiheijo Cement Corp. applied for an NPDES permit for their proposal?

Ortman, David

**Response**

The Applicant already has an NPDES permit for the site. King County will determine if this permit requires revision or additional NPDES review and approval prior to issuing a grading permit.

## ***Hydraulic Project Approval***

### ***Comment A-2.001***

It appears from the general description of the project, that a Hydraulic Project Approval (HPA; RCW 75.20, WAC 220-110) to be issued by WDFW, will be required for the project. There is, however, insufficient project detail to determine specific conditions to be placed on the project at this stage of the project development. We encourage you to seek involvement from WDFW on resource needs and typical project requirements to insure proper protection of fish life as you proceed with project design and development. Early involvement with WDFW will facilitate later processing of the HPA. Once final design plans are available, please submit a completed Joint Aquatic Resource Permits Application (JARPA) for an HPA, including complete plans and specifications, to WDFW for review.

Washington Department of Fish and Wildlife

### ***Comment A-2.002***

The plans and specifications should be developed relative to Mean Higher High Water (MHHW), (Datum, Mean Lower Low Water [MLLW] = 0.0 feet). The drawings should accurately depict existing conditions including all prominent natural features and manmade improvements on the bank and beach in the immediate vicinity of the project area. They should include plan and cross-sectional views of the proposed project, a vicinity map of the project area, and accurate directions to the project site. In addition, to aid us in locating the project site, a photograph should be supplied.

Washington Department of Fish and Wildlife

### ***Comment O-1.265***

Table 6-2 p. 6-24 Is it correct to conclude that the existing dock, which has been unused for the last 20 years, is located in a known eelgrass area and that the existing dock shades eelgrass? Is it correct that to comply with WAC Requirement per Chapter 220-110 WAC Hydraulic Code Rules this unused dock should be removed in order to avoid shading effects on eel grass?

Ortman, David

### ***Response***

The WDFW has jurisdiction regarding WAC Hydraulic Code Rules. King County has coordinated with the WDFW and WDNR regarding nearshore impacts and mitigation, including the effect of the project on eelgrass.

## ***Notice of Construction Permit from the Puget Sound Clean Air Agency***

### ***Comment O-1.006***

On page 3-8 it states that Taiheijo Cement Corp. would have to obtain a Notice of Construction permit from the Puget Sound Clean Air Agency. Why is this permit not listed in Sec. 1.2.1?  
Ortman, David

### ***Response***

This permit has been added to Section 1.2.3 in the FEIS.

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## ***Model Toxic Control Act Requirements***

### ***Comment C-8.001***

(part 1 of 2) #91 (in part). Under required permits, there is no discussion of approval of the arsenic remediation plan by the Department of Ecology. Please clarify whether the Department of Ecology is seeking information through the public comment process or whether there will be other venues for comment. Please discuss what approvals, etc. are required under MTCA.  
Vashon-Maury Island Community Council

### ***Comment C-8.002***

The current permit has not evaluated the handling of contaminated soil on the site, and does not comply with MTCA guidelines.  
Vashon-Maury Island Community Council

### ***Response***

The Applicant is working directly with the Department of Ecology regarding MTCA compliance, and King County will require Ecology's approval under MTCA prior to issuing a grading permit. At the time of the printing of the FEIS, Ecology believed the Applicant to be pursuing permitting as a voluntary cleanup action. The FEIS evaluates the effectiveness of the proposed mitigation and includes additional measures to protect public health and the environment from arsenic.

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## ***Other Permits***

### ***Comment A-3.002***

Lone Star has a water rights claim for a spring on the proposed mine site. If consumptive use of water from the spring for the proposed expanded mine operation is in excess of water quantities historically used, the mine will require a Water Right Permit from the Department of Ecology. If water is imported from off-site it must be purchased from a municipal water system because of place of use restrictions on other than municipal systems.  
Ecology

- Comment I-7.005** How about electrical permits and permits for septic systems?  
Michael Meyer
- Comment I-7.004** Won't a King County building permit be required for fencing around the site ... , and structures?  
Michael Meyer
- Response** A Water Right Permit has been added to Section 1.2.3 of the FEIS as a possible required permit of the Applicant. No septic system is proposed as part of the project. A building permit may be required for fencing.
- 

## **1.2.4 Existing Permits**

- Comment C-8.016** The DNS issued in 1977 is countermanded by the finding of significance for the current proposal. Therefore, correct the statement that current operations are also covered by the DNS issued by King County in 1977. State whether the findings, comments, review of the EIS will also impact the existing grading permit, should no increase be approved.  
Vashon-Maury Island Community Council
- Response** The Determination of Significance is for the Applicant's proposal to significantly increase mining levels above current levels and to make site improvements to allow such an increase, including in-water work for the dock. King County determined that these actions are not covered under the 1997 DNS. Decisions and conditions regarding the grading permit will override the existing permit.
- 
- Comment O-1.008** On p. 1-3 it states that mining on the site is currently conducted under a King County Grading Permit (1971) and a WA DNR Surface Mining Reclamation Permit (1971). What reclamation has taken place under the DNR permit to date? What reclamation obligations did Taiheijo Cement Corp. have for this site prior to the 1993 amendments to the state's Surface Mining Act?  
Ortman, David
- Comment O-1.419** 3.1 p. 2 This section states that the existing pit covers an area of 40 acres of disturbed area, of which 9 acres are currently being mined and that no formal reclamation process appears to have been performed. Please explain what reclamation requirements were in

the DNR Reclamation Permit for this site and why no reclamation has taken place.

Ortman, David

**Response**

Little reclamation has been completed since areas that have been mined are still within the “working face” of the mine and are not at final grade. Current reclamation obligations are not very specific, and could be accomplished by hydroseeding exposed surfaces. King County is considering several alternatives to the Applicant’s proposed reclamation plan, particularly in light of the presence of and concern for madrone forest on the site. The FEIS includes additional information regarding reclamation plans, including additional mitigation measures to maintain madrone forest.

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## **1.2.5 How Mitigation is Addressed in this EIS**

### ***SEPA Requirements***

**Comment O-1.009**

Jones & Stokes has misled decision-makers and the public by its display of how mitigation is addressed in this EIS. As set out in WAC 197-11-768, the first and highest priority mitigation is (1) Avoiding the impact altogether by not taking a certain action or parts of an action. This is the only part of the SEPA regulations that Jones & Stokes does not quote directly in this section. Apparently, since it is not to Taiheijo Cement Corp’s advantage to highlight “(1) Avoiding the impact altogether by not taking a certain action or parts of an action”, Jones & Stokes approach is to downplay this part and refuse to evaluate it in the DEIS.

Ortman, David

**Comment O-1.010**

Please revise this section and add the following: *One of the purposes of SEPA is “to promote efforts which will prevent or eliminate damage to the environment and biosphere” (RCW 43.21C.010).* Mitigation for impacts is set out in the SEPA regulations with the highest emphasis on “(1) Avoiding the impact altogether by not taking a certain action or parts of an action.” WAC 197-11-768. The impacts of removing a significant portion of Maury Island would be avoided by rezoning the site and closing the mine.

Ortman, David

**Comment O-1.511**

WAC 197-11-400(2) states that “An EIS shall provide impartial discussion of significant environmental impacts and shall inform decision-makers and the public of reasonable alternatives, including mitigation measures, that would avoid or minimize adverse impacts or enhance environmental quality.” Preparing a mitigation plan after the issuance of a DEIS is a violation of the State Environmental Policy Act. The applicant and Jones & Stokes must present a mitigation plan for review as part of the DEIS process, not after a permit is granted.

Ortman, David

**Response**

Avoidance has been added to the FEIS as the first preference for mitigating an impact. Many mitigation measures identified in the FEIS are intended to avoid impacts. Per SEPA, WAC 197-11-440, EIS Contents:

*The EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant adverse impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA (see WAC 197-11-660(2)).*

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**Accountability of King County**

**Comment I-21.005**

What powers does King County and our community have to ensure proper practices; future monitoring; to fine or shut down the mine when problems arise?

Alby Baker

**Comment I-14.005**

What assurance have we that environmental impacts will be eliminated or minimized?

Eugene A. Smith

**Comment G-1.016**

16. The mechanisms of enforcement are not spelled out. We would suggest that there should be independent monitoring personnel on site at all times, with power to close down the operation on the spot in case of violations of any of the health and safety provisions. Self-monitoring is not acceptable, especially give the track record of the proponent, and given the uncertainty as to who owns the property, who has the right to decide whether to mine or not, and who will actually be in charge day-to-day.

Seattle Council on Airport Affairs



**Comment I-7.010**

... can we assume that the applicant, Jones and Stokes, and King County guarantee that this device (spill pan) will eliminate spillage?

Michael Meyer

**Comment I-6.033**

If the permit is not denied, will DDES require the proper condition and ensure that these conditions are enforced to make sure that Lone Star is not allowed to damage the environment?

Alan Gorski

**Comment I-6.034**

Will there be 24-hour monitoring to ensure that there is no damage to the environment?

Alan Gorski

**Response**

King County Code, Chapter 16.82 (grading permits), Section 130, defines King County's authority to enforce conditions established under grading permits. Additional measures for monitoring and accountability, including participation of the community, have been included in the FEIS.

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***Accountability of Applicant***

**Comment C-9.008**

The factors which determine an island's environmental health can be established by comparing its before and after condition, which defines the liability of those involved. The liability of those involved in this proposal may well exceed their resources, and the public would then have to carry the burden of cleaning up another industrial mess.

Vashon-Maury Island Community Council

**Comment I-21.002**

When permitting, King County should be required to review and consider an applicant's history especially in relation to environmental and community laws and responsibilities. ... If our own agencies will not cover these issues- who will?

Alby Baker

**Comment I-3.020**

... Lone Star and their parent company ... have a terrible track record ... polluted, ... destroyed aquifers ... and not been held accountable ... their history indicates their irresponsibility.

Judith Wood Pearce

**Comment I-2.030**

Why would King County permit a company with the environmental record of Lone Star to so drastically increase ... level of mining?

Rose Clark

**Comment G-1.010**

(repeated in part from section 2.2.2) There remains the risk pointed out in our scoping comments and in other communications to the Department that this applicant may vanish like a puff of smoke whenever its foreign owners want to evade their responsibilities. A simple bankruptcy application, and reclamation will no longer be the responsibility of the nominal owners (assuming that the true ownership is known -- another issue that we have raised with the Department without response). Or, the owners can simply abandon the operation, and allow the property to revert to the County itself for unpaid taxes, neatly shifting the reclamation burden to the taxpayers - which our state statute was intended to prevent. A stricter schedule of reclamation would help to lessen these risks.

Seattle Council on Airport Affairs

**Response**

Per King County Code, King County could require bonds and other assurances that all conditions of the grading permit are followed.

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***Bonding Requirements***

**Comment**

So, perhaps, rather than mitigation, major penalties, such as a \$200 million bond for damage to the aquifer and installation of a pipeline (with the bond assigned to King County and residents of Vashon/Maury), and a \$100 million bond for damage to salmon habitat (with the bond assigned to Vashon/Maury and the Federal Government), and a \$50 million bond for damage from the arsenic berm (assigned to the State of Washington and Vashon/Maury), should be considered. If not, please identify the assets which the corporation has available and the assurances the corporation has available to pay for restoration and/or damages.

Sharon K. Nelson

**Comment I-6.009**

What are the bond requirements to ensure that the operator does not damage the ecosystem? A bond of \$1 billion put up by Lone Star should be considered the minimum considering ... Lone Star's criminal environmental record.

Alan Gorski

**Comment I-21.007**

Does Lone Star have to put up a bond commensurate to the worst case scenarios? How much would that be?

Alby Baker

**Response**

Per King County Code, Chapter 16.82.170:

*the department (King County) is authorized to require all applicants issued permits or approvals under the provisions of the title to post financial guarantees consistent with the provisions of Ordinance 12020.*

Bonds and other financial assurances are typical conditions of major projects and are likely to be included in King County decisions regarding the proposed revisions to the grading permit.

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**Who Monitors?**

**Comment I-13.007**

Will it be left up to Lone Star to self-enforce?  
Michael Kirkland

**Comment I-21.009**

Is it a good idea to allow Lone Star to monitor themselves?  
Alby Baker

**Response**

Specific responsibilities for monitoring and reporting would be defined as conditions of the grading permit, if approved. Use of independent monitoring has been included for consideration in the FEIS.

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**Responsibility and Payment for Damages**

**Comment I-21.008**

What does it take to shut a mine down? What if Lone Star Dissolves as a legally responsible business entity? Who pays?  
Alby Baker

**Comment I-21.011**

How binding are the guidelines, laws and “shoulds” in the EIS?  
Alby Baker

**Comment 10 I-21.006**

Or in the event of an aquifer breach, shoreline or habitat destruction, arsenic contamination, or adjacent properties rendered valueless- what absolute legal recourse do we have for reparations and compensation?  
Alby Baker

**Response**

The conditions of the permit would apply to all operations at this site, regardless of ownership. The evidence and analysis presented in the FEIS documents that an aquifer breach is not a likely environmental impact of the project.

## ***Mitigation Plans and Timing of the EIS***

**Comment**

How will the EIS process be integrated with the promised, but unfinished data and reports? Will final decisions be postponed until after such activities as baseline groundwater monitoring, and macrophyte surveys? ... The vague generalities presented herein seem reasonable; however issues such as monitoring, oversight, enforcement and liability are either ignored or are left to be worked out in future documents.

J. Michael Kuperberg, Ph.D.

**Comment**

For example, what will happen if the modeled estimates are erroneous? How frequently will data such as siltation be collected and forwarded, what is the turn-around time for review, how many instances of increased siltation will trigger shut down of mining operations? Similar questions should be addressed for noise, dust and other issues of concern. Finding protocols that will satisfy concerned residents and neighbors while protecting the business concerns of the landowners will be difficult.

J. Michael Kuperberg, Ph.D.

**Comment**

Is the public health, safety and welfare of King County citizens , taxpayers and voter properly protected when an EIS purporting to encompass all aspects of a proposed land use action refers to future reports, applicant's and DDES decisions, "... to be added to the final EIS."?

Joel Kuperberg

**Comment**

2.12.5 How can the EIS be approved when the restoration plans are relegated to some time in the distant future (after the permit is approved)?

J. Michael Kuperberg, Ph.D.

**Comment**

Before allowing reconstruction of the pier or pit operations to start, base lines, inspection schedules, and mitigation plans should be in place and include provisions for rapid response.

Keith Putnam

**Comment**

How can concerned citizens taxpayers and voters understand and comment intelligently upon the scope and scale of this proposal to scrape out the largest gravel quarry in Washington State when critical operational procedures have not yet been established?

Joel Kuperberg

**Comment I-21.010**

Would there be contingency plans laid out for each possible problem?

Alby Baker

**Comment I-14.003**

Draft copies of [mitigation plans] should be made available to, reviewed, and commented on by Islanders who are experienced in the appropriate disciplines before the DEIS is considered for approval;.

Eugene A. Smith

**Comment C-8.102**

#102 References are made to “plans” to be developed later, including the dust control plan, modified drainage plan, action plans for groundwater seepage, marine monitoring and mitigation plan, air quality monitoring plan, and water conservation plan. In addition, no details are available for the following suggested actions:

- retention/sedimentation pond,
- temporary collection ponds,
- wetland community at retention/sedimentation pond,
- agreement reached with the Puyallup Tribe on geoduck harvest,
- agreement for payment and restoration following spills,
- twelve foot berm to reduce noise impacts, and
- eelgrass study.

One of the purposes of the DEIS should be to provide significant data on the environmental impact of the proposed project. Not to have available for review plans detailing how significant issues will be addressed makes this process a sham. These key elements must be available for public comment. Incorporating them into the final EIS without benefit of public review and comment demeans this process. It appears that the process being utilized for this project is one involving tiers of approvals and project-related documents, resulting in the public having to accept that many issues/plans are being developed after the DEIS comment period. Thus, the public and agencies reviewing the DEIS are expected to accept the fact that in the future most details related to the strip mine will be provided to and negotiated with King County and/or DOE.

This perhaps reflects the No-Action Alternative’s threatening tone that King County may negotiate or settle with the applicant at any level of operation, with any conditions, with numerous documents undisclosed to the public, all due to the financial strength/political connections of the applicant, the strong demand for sand, and the threat(s) made by the applicant to sue the County. The multi-tiered approval and release of documents in conjunction with the lack of information in the DEIS has circumvented the public comment process.

Vashon-Maury Island Community Council

**Comment I-7.015**

(repeated) Without the sampling plan (for contaminated soils to be segregated) being presented, how can we be sure that all of the arsenic-contaminated soil is contained?

Michael Meyer

**Response**

Under SEPA (WAC 197-11-440):

*The EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant adverse impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA (see WAC 197-11-660(2)).*

It is unreasonable to require the Applicant to pay for design-level mitigation plans when the question of whether or not a permit will be granted has not yet been determined. As conditions of a King County permit, mitigation plans would be available for public review. King County anticipates continuing involvement of the Vashon/Maury Island Community Council and other interested community members, should the project be approved.

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## **1.3 Existing Site Characteristics**

### **1.3.1 Geology/Mineral Resources**

**Comment O-1.021**

Jones & Stokes in this one short section alone refers to “sand and gravel”, “mineral extraction”, “materials”, “sand and structural fills”, and “quality fills”. Please use a consistent term throughout the EIS such as “mostly sand and some gravel”.

Ortman, David

**Comment O-1.012**

Jones & Stokes’ DEIS presents a nearly incomprehensible description of the proposed project or need for the proposed action. At various points in the DEIS the material on site is described as: “sand and gravel” (p. 5-i), “mined materials” (p. S-1 and p. 8-10), “sand and structural fills” (p. S-2), “quality fills” (p. S-2), “site deposits” (p. S-2), “mineral extraction” (p. 1-2) “mostly sand and some gravel” (p. 1-5), “ideal structural fill for construction projects”, (p. 1-5), “a relatively uniform product”, (p. 2-4), “aggregate” (p. 84).

Ortman, David

**Comment O-1.013**

In addition, Jones & Stokes fails to provide a clear definition for “structural fills”. This section states that there is an “anticipated high market demand for sand and structural fills”. Jones & Stokes claim in Sec. 1.3.1 that the site contains mostly sand and some gravel in a deposit referred to as Vashon Advance Outwash and that these deposits make ideal structural fill for construction projects. However, a 24 June 1999 Seattle Times Business article stated that, “Builders favor the substance underneath, a harder, more compact soil, often called structural fill”.

Ortman, David

**Comment O-1.014**

Is sand not considered “structural fill”?

Ortman, David

**Comment O-1.015**

Section 1.3.1, p. 1-5, states that the site contains mostly sand and some gravel. Again, there needs to be clarity in how this site is described. It states that the site contains approximately 63 million cubic yards of Vashon Advance Outwash deposit. What percentage of Maury Island does this represent?

Ortman, David

**Comment I-7.007**

It appears that there is nothing really unique about the products at this site. Is this true?

Michael Meyer

**Response**

The site contains a mixture of sand and gravel. The FEIS has been revised to make references to the materials present more consistent. The percentage of sand and gravel to be mined compared to the amount of sand and gravel on Maury Island would be difficult to estimate and is not relevant to the decision. The area to be affected, in relationship to the island, has been described in the EIS.

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## **1.3.2 Topography**

**Comment I-7.008**

It looks ... like the project would redirect some topographical drainages that currently are directed to Quartermaster Harbor and cause water to flow 180 degrees toward Puget Sound. Isn't this a significant point to consider with regard to current and future topography?

Michael Meyer

**Response**

The project is not likely to significantly alter drainage to Quartermaster Harbor, as described in the EIS and also as supported in the study conducted by Ecology.

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### **1.3.3 Vegetation**

No substantive comments were received that specifically address this section.

### **1.3.4 Land Use Designations and Zoning**

No substantive comments were received that specifically address this section.

### **1.3.5 Site Access and Utilities**

No substantive comments were received that specifically address this section.

## **1.4 Past and Current Mining Activity**

**Comment O-1.002**

Please document the tonnage and cubic yards of sand and the tonnage and cubic yards of gravel that Taiheijo Cement Corp. removed from its Maury Island mine during 1998.

Ortman, David

**Comment O-1.016**

1.3.3. p. 1-6. This section states that portions of the previously mined areas now have vegetation growing on them, much of which is Scot's broom and other non-native or weedy species. How does this comply with DNR's Surface Mining Reclamation Permit No.70-010256 issued for the existing mining on this problem?

Ortman, David

**Comment O-1.242**

(in part, see also Section 5.4) Can the DEIS provide a clear picture of where mining on the site has previously taken place?

Ortman, David

**Comment O-1.018**

1.2. p. 1-2. Please indicate throughout the EIS that Taiheijo Cement Corp. is the real applicant for this proposal. Jones & Stokes has failed to provided a clear history or description of past mining at this site. They have mixed extraction in units of cubic



yards and tonnage and mixed sand and gravel measurements.  
Ortman, David

**Comment O-1.020** What is the tonnage and cubic yards of sand and the tonnage and cubic yards of gravel that have been removed from this mine site since it began operation?  
Ortman, David

**Comment O-1.022** When did mining beginning on this site?  
Ortman, David

**Comment O-1.023** Who owned this mine area during the 1940's?  
Ortman, David

**Comment O-1.024** How many cubic yards and tonnage of sand was removed from this site in the 1940's?  
Ortman, David

**Comment O-1.026** Who owned this mine area during the 1950's?  
Ortman, David

**Comment O-1.027** How many cubic yards and tonnage of sand was removed from this site in the 1950's?  
Ortman, David

**Comment O-1.029** Who owned this mine area during the 1960's?  
Ortman, David

**Comment O-1.030** How many cubic yards and tonnage of sand was removed from this site in the 1960's?  
Ortman, David

**Comment O-1.031** How many cubic yards and tonnage of gravel was removed from this site in the 1960's?  
Ortman, David

**Comment O-1.032** It states that in 1971, Pioneer Sand & Gravel owned this site. How long did they own the site? When did Taiheijo Cement Corp. obtain ownership of the site?  
Ortman, David

**Comment O-1.033** How many cubic yards and tonnage of sand was removed from this site in the 1970's?  
Ortman, David

**Comment O-1.034** How many cubic yards and tonnage of gravel was removed from this site in the 1970's?  
Ortman, David

- Comment O-1.035** Who owned this mine site during the 1980's?  
Ortman, David
- Comment O-1.036** How many cubic yards and tonnage of sand was removed from this site in the 1980's?  
Ortman, David
- Comment O-1.037** How many cubic yards and tonnage of gravel was removed from this site in the 1980's?  
Ortman, David
- Comment O-1.038** Who owned this mine site during the 1990's?  
Ortman, David
- Comment O-1.039** How many cubic yards and tonnage of sand was removed from this site in the 1990's?  
Ortman, David
- Comment O-1.057** p. S-3. It states on this page that the amount of sand and gravel extracted for the local market was estimated to average approximately 15,000 tons in 1998. It also states that at some point the increase in extraction for the local market would slow and eventually halt, since the demand for sand and gravel within the confines of Vashon/Maury Island is limited.  
Ortman, David
- Comment O-1.019** What is the tonnage and cubic yards of sand and the tonnage and cubic yards of gravel that Taiheijo Cement Corp. removed from its Maury Island mine during 1998?  
Ortman, David
- Comment O-1.058** What percentage of the material extracted in 1998 was sand?  
Ortman, David
- Comment O-1.059** What percentage of the material extracted in 1998 was gravel?  
Ortman, David
- Comment O-1.060** What type of local projects used sand from this mine?  
Ortman, David
- Comment C-8.018** Please correct the EIS to note that no mining is occurring and that it has not occurred since January 1998.  
Vashon-Maury Island Community Council
- Comment G-3.018** (pt. 3 of 8) None of the past dredging and dock construction activity is explained.  
People for Puget Sound

**Response**

The FEIS includes a description of past mining activities at a level necessary to evaluate impacts, mitigation measures, and other factors relative to an informed decision regarding the permit. The information requested by these comments is at a level of detail that is not relevant to the decision to be made.

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## **1.5 Citations**

There are no new citations in this Chapter. See comment letters in Volumes 5 and 6 for references cited in comments.